

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

MONDAY, THE 1ST JANUARY 2007 /

MACA.No. 2077 of 2005(C)

OPMV.480/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANTS/PETITIONERS.

- 1. SAFIYA V.P. W/O.LATE MUHAMMED,
VALIYAPEEDIKAYIL HOUSE, VENGAPPALLY,
P.O.PINANGODE,VYTHIRI TALUK, WAYANAD DISTRICT.**
- 2. ASHIB.V.P. D/O.LATE MUHAMMED,
VALIYAPEEKAYIL HOUSE, VENGAPPALLY, P.O.PINANGODE,
VYTHIRI TALUK, WAYANAD DISTRICT.**
- 3. NISTHAR V.P. S/O.LATE MUHAMMED,
VALIYAPEEDIKAYIL HOUSE, VENGAPPALLY,
P.O.PINANGODE, VYTHIRI TALUK, WAYANAD DISTRICT.**
- 4. NISHAR, S/O.LATE MUHAMMED,
VALIYAPEEDIKAYIL HOUSE, VENGAPPALLY,
PINANGODE, VYTHIRI TALUK, WAYANAD DISTRICT.**
- 5. ASHIQUE, S/O.LATE MUHAMMED,
VALIYAPEEDIKAYIL HOUSE, VENGAPPALLY P.O.PINANGAODE
VYTHIRI TALUK, WAYANAD DISTRICT.**
- 6. ARSHANA SHIJIL, D/O.LATE MUHAMMED,
VALIYAPEEDIKAYIL HOUSE, VENGAPPALLY,
P.O.PINANGODE, VYTHIRI TALUK, WAYNAD DISTRICT.
(APPELLANTS 3 TO 6 ARE MINORS, REPRESENTED BY THE
GUARDIAN MOTHER IST APPELLANT SAFIYA V.P.).**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS/RESPONDENTS:

- 1. ARUMUGHA, S/O.VENKATARAMU, GAJJALANATHA,
RAMAPURAM P.O. KOLAGAL TALUK, GUNDALPET,
VIA KARNATAKA STATE, DVR OF KA 10/4555 LORRY.**
- 2. RAJASEKHAR B.S. S/O.SIVANNA,
M/S.MANIKANDA STORES, M.D.C.C.BANK ROAD,
HUNNUR, KOLLAGAL TALUK, CHAMARAJANAGAR DISTRICT,
KARNATAKA STATE, R.C.OWNER OF KA 10/4555 LORRY.**
- 3. UNITED INDIA INSURANCE CO.LTD.,
305, ATCHAMS MANSIONS, SOUTHERN EXTENSION,
KOLLAGAL 571 440, KARNATAKA STATE,
INSURER OF KA 10/4555 LORRY.**
- 4. A.SURENDRAN, DRIVER, VADAKARA DEPO
K.S.R.T.C. VADAKARA. DRIVER OF TN 681, KL-15/3899
K.S.R.T.C. BUS.**
- 5. THE MANAGING DIRECTOR,
K.S.R.T.C. THIRUVANANTHAPURAM, R.C.OWNER OF
T.N. 681 KL-15/3899 K.S.R.T.C. BUS.**
- 6. NATIONAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, P.B.NO.434,
ST.JOSEPHS PRESS BUILDING, VAZHUTHACAUD,
THIRUVANANTHAPURAM, INSURER OF TN 681, KL-15/3899,
K.S.R.T.C. BUS.**

**BY ADV. SRI. JOHNSON P. JOHN SC, KSRTC
SRI.P.JAYASANKAR
SRI.P.R.RAMACHANDRA MENON**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 2077 OF 2005

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Dated this the 1st day of January, 2007.

J U D G M E N T

Krishnan, J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Wayanad in O.P.(MV) 480/01. The claimants are the mother and sisters of the deceased who died in a road accident. In an unfortunate accident the father and the son who were the sole bread earning members of the family lost their lives. Son was aged 20 years. The Tribunal took his income at Rs.1,750/- per month and awarded a compensation of Rs.2,41,000/-. It is against that decision the present appeal is filed by the claimants.

2. Admittedly, the father was running a watch repairing shop and the son was helping him in effecting watch repairs. The father was aged 50 years at the time of the accident and he was running the shop. We feel this is a fit case where at least Rs.2,000/- can be taken as the income. It has also to be stated that both the earning members died in the road accident. So,

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after fixing the income at Rs.2,000/- and deducting 1/3rd for the personal expenses the annual loss of dependency would come to Rs.2,56,000/-. The Tribunal has awarded a total compensation of Rs.2,24,000/- under that head. Therefore, the claimants are entitled to an additional compensation of Rs.32,000/- under that head. The mother who is only aged 38 years had lost her son and the sisters had lost their affectionate brother and no amount is seen awarded towards love and affection. So, we award another Rs.10,000/- towards love and affection. Therefore, the claimants are entitled to total additional compensation of Rs.42,000/-.

In the result, the M.A.C.A. is partly allowed and the claimants are awarded an additional compensation of Rs.42,000/- with 6% interest on the said sum from the date of petition till realisation and the 3rd respondent Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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